

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 05-10370PBS

BARBARA CORDI-ALLEN AND)
JOHN ALLEN,)
Plaintiffs,)
)
)
VS.)
)
JOSEPH R. CONLON, ARTHUR F. HUTLIN,)
NORMAN H. POPE, KEITH S. ALTHAUS,)
And MARINNA MATRICARDI as they are)
Members and collectively the TRURO)
ZONING BOARD OF APPEALS AND THE)
TOWN OF TRURO, MASSACHUSETTS,)
AND BROOKE NEWMAN,)
Defendants)

DEFENDANTS' MOTION TO COMPEL PLAINTIFF TO ANSWER DISCOVERY

Pursuant to Rule 37(a)(2) of the Federal Rules of Civil Procedure, the Defendants, the Truro Zoning Board of Appeals and the Town of Truro (the "Town Defendants") and Brooke Newman hereby move this honorable Court to compel the Plaintiff to answer the interrogatories propounded on the Plaintiff as well as respond to Requests for the Production of Documents also propounded on the Plaintiff by the Defendants on August 2, 2005. As grounds therefore the Defendants state as follows:

1. The Plaintiffs filed their Complaint in the Barnstable Superior Court on or about February 8, 2005.
2. The Town Defendants removed the case to the United States District Court on March 14, 2005.
3. In accordance with Rule 26(a) of the Federal Rules of Civil Procedure and Local Rule 26.2, the Town Defendants provided the Plaintiff with their initial disclosures on April 6, 2005 and provided a supplement to their

initial disclosures on June 2, 2005. The Defendant Brooke Newman provided the Plaintiff with her Automatic Disclosures on June 1, 2005.

4. The Plaintiff did not provide the Defendants with their Automatic Disclosures until August 22, 2005 and only after the urging of the Defendants and the threat that a motion to compel the disclosures would have to be filed with the Court.
5. The Town Defendants propounded written interrogatories and requests for the production of documents on the Plaintiff on August 2, 2005. The Defendants also noticed the deposition of the Plaintiff Ms. Cordi-Allen to go forward on September 21, 2005. Defendant Brooke Newman propounded written discovery requests on the Plaintiff on September 30, 2005 as well.
6. To date the Plaintiff has not responded to the Defendants' requests for the production of documents and has not answered the interrogatories propounded by the Defendants over three months ago.
7. The Defendants' attorneys have had several telephone conversations with the Plaintiffs' attorney requesting that the Plaintiffs respond to the discovery requests. In addition, the Town Defendants attorney sent correspondence to the Plaintiffs' attorney on September 19, 2005 postponing the Plaintiff's deposition until such time as the Plaintiff responds to the outstanding discovery requests. Defendant Brooke Newman's attorney sent correspondence to the Plaintiffs' attorney on October 21, 2005 postponing depositions yet again until responses to documents requests were forthcoming. Despite the Plaintiffs' attorney

continual assurances that the discovery responses would be forthcoming,
no discovery responses have been received by the Defendants.

WHEREFORE, the Defendants respectfully request that this honorable Court
compel the Plaintiff to respond to the outstanding Requests for the Production of
Documents as well as answer the Interrogatories propounded by the Defendants.

Respectfully submitted,
For the Defendants,
Truro Zoning Board of Appeals and
The Tow of Truro, et al
By their attorneys,

Respectfully submitted,
For the Defendant,
Brooke Newman,
By her attorneys,

/s/ Deborah I. Ecker
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DATED: November 10, 2005